

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

RICHARD OTTO HANSEN,

Plaintiff,

vs.

THE CITY OF SUPERIOR,  
NEBRASKA, as a Municipal Corporation  
of the State of Nebraska; SONIA  
SCHMIDT, in her individual and official  
capacities as the Mayor of Superior,  
Nebraska; CARRIE LEMKE, in her  
individual capacity as the President of the  
City Council of Superior, Nebraska;  
RICK DISNEY, in his individual  
capacity as a member of the City Council  
of Superior, Nebraska; SANDRA  
FOOTE, in her individual capacity as a  
member of the City Council of Superior,  
Nebraska; STEVE FOX, in his individual  
capacity as a member of the City Council  
of Superior, Nebraska; KENT JENSBY,  
in his individual capacity as a member of  
the City of Council of Superior,  
Nebraska; CHRIS PETERSON, in his  
individual capacity as a member of the  
City of Council of Superior, Nebraska;  
BOBBI PETTIT, in her individual  
capacity as the Nuisance Abatement  
Office of Superior, Nebraska; DEREK  
CLARK, in his individual capacity as the  
Director of Planning and Zoning of  
Superior, Nebraska; JANE DOES, in  
their individual capacities as officers,  
agents, servants, and employees of  
Superior, Nebraska, and those Jane Does  
persons in active concert or participation

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**MEMORANDUM  
AND ORDER**

with them; JOHN DOES, in their individual capacities as officers, agents, servants, and employees of Superior, Nebraska, and those John Does persons in active concert or participation with them; and JAN DIEHL, in her individual capacity as the Clerk of Superior, Nebraska;

Defendants.

Plaintiff Richard Otto Hansen, a non-prisoner, filed a Motion for Leave to Proceed in Forma Pauperis (“IFP”) ([filing no. 3](#)), a Motion for Appointment of Counsel ([filing no. 4](#)), and a Motion for Service of Process ([filing no. 5](#)). Upon review of Plaintiff’s IFP motion, the court finds that Plaintiff is financially eligible to proceed in forma pauperis.

The court is required to review in forma pauperis complaints to determine whether summary dismissal is appropriate. *See* 28 U.S.C. § 1915(e)(2). The court must dismiss a complaint or any portion thereof that states a frivolous or malicious claim, that fails to state a claim upon which relief may be granted, or that seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2)(B). This matter may not proceed to service of process unless so ordered by the court after conducting this initial review. Accordingly, Plaintiff’s motion for service of process ([filing no. 5](#)) is denied.

Plaintiff also requests that the court appoint him “competent and effective counsel to assist him” in this action. ([Filing No. 4](#).) The court cannot routinely appoint counsel in civil cases. In *Davis v. Scott*, 94 F.3d 444, 447 (8th Cir. 1996), the Eighth Circuit Court of Appeals explained that “[i]ndigent civil litigants do not have a constitutional or statutory right to appointed counsel.” Trial courts have “broad discretion to decide whether both the plaintiff and the court will benefit from the appointment of counsel, taking into account the factual and legal

complexity of the case, the presence or absence of conflicting testimony, and the plaintiff's ability to investigate the facts and present his claim." *Id.* Having considered these factors, the request for the appointment of counsel will be denied at this time without prejudice to reassertion.

IT IS THEREFORE ORDERED that:

1. Plaintiff's Motion for Leave to Proceed in Forma Pauperis ([filing no. 3](#)) is granted, and the Complaint shall be filed without payment of fees.
2. Plaintiff's Motion for Appointment of Counsel ([filing no. 4](#)) is denied without prejudice to reassertion.
3. Plaintiff's Motion for Service of Process ([filing no. 5](#)) is denied.
4. Plaintiff is advised that the next step in his case will be for the court to conduct an initial review of his claims to determine whether summary dismissal is appropriate under [28 U.S.C. § 1915\(e\)\(2\)](#). The court will conduct this initial review in its normal course of business.

Dated this 13th day of February, 2020.

BY THE COURT:



Richard G. Kopf  
Senior United States District Judge